borative evidence. We think, however, the matter should have been more fully explained to the jury. In the case of *Zielinski*[2] it was held that there must not only be an adequate direction as to the necessity for corroboration but that the jury must also be told what in law is meant by corroboration. In the present case that was not done.

The best statement of what is meant in law by corroboration in this connection is probably still to be found in the old leading case of *Rex* v. *Baskerville*[3] where Lord Reading said:—

"We hold that evidence in corroboration must be independent testimony which affects the accused by connecting or tending to connect him with the crime. In other words, it must be evidence which implicates him, that is, which confirms in some material particular not only the evidence that the crime has been committed, but also that the prisoner committed it..... The nature of the corroboration will necessarily vary according to the particular circumstances of the offence charged. It would be in high degree dangerous to attempt to formulate the kind of evidence which would be regarded as corroboration, except to say that corroborative evidence is evidence which shows or tends to show that the story of the accomplice that the accused committed the crime is true, not merely that the crime has been committed, but that it was committed by the accused."

In our view in the present case the jury should have been told that corroboration must consist of independent evidence showing in the first place that the crime was committed and in the second place that the appellants were connected with it in the way alleged against them by the prosecution. In so far as this was not done there was a lack of direction and the convictions therefore cannot stand.

Fortunately we are not subject to the limitations to which the Court of Criminal Appeal is subject in England and accordingly we order a retrial of all the appellants.

Retrial ordered.

Solicitors: *Lim, Lim & Oon.*

Re CHOO JEE JENG

[O. Cr. J. (Ambrose J.) August 29, 1959]

[Singapore — Habeas Corpus No. 1 of 1959]

Habeas Corpus — Detention under the Preservation of Public Security Ordinance, 1955, s.3(1) — Grounds of detention supplied under s.5(2) — Right of appeal to Appeal Tribunal under s.5(1) — Criminal Procedure Code (Cap. 132), s.375.

Preservation of Public Security Ordinance, 1955, s.3(1) — Prevention from "acting in any manner prejudicial to the security of Malaya..." — Whether ultra vires the Legislative Assembly established by the Singapore Colony Order in Council, 1955.

Criminal Law and Procedure — Habeas Corpus — Detention under the Preservation of Public Security Ordinance, 1955.

Constitutional Law — Colonial Legislature — Power to make legislation having extra-territorial operation — Enabling statute.

This was an application under section 375 of the Criminal Procedure Code for a writ of *habeas corpus*. The Court granted an order *nisi* directing the Chief Secretary and the Commissioner of Police to show cause why the writ should not issue. In their affidavits they stated that the applicant was detained under a detention order made under section 3(1) of the Preservation of Public Security Ordinance, 1955.

It was contended for the applicant (1) that section 3(1) of the Ordinance makes provision for extra-territorial matters, namely, the security of the Federation of Malaya and the maintenance of public order and essential services therein and that the subsection was therefore *ultra vires* the Legislative Assembly established in Singapore by the Singapore Colony Order in Council, 1955; (2) that where a statute requires that a public officer should be satisfied of something before exercising a statutory power, if it could be shown that there were no grounds on which he could be so satisfied, the Court might infer either that he did not honestly form that view or that, in forming it, he could not have applied his mind to the relevant facts; and (3) that the statement of the grounds of detention supplied to the applicant was inadequate and, therefore, that the detention was improper.

Held: (1) the principle to be applied in deciding whether a law is *ultra vires* the legislature of the Colony of Singapore is laid down in *Wallace Bros. & Co. Ltd.* v. *Commissioner of Income Tax, Bombay* [2]. The test is whether section 3(1) of the Ordinance is for the peace, order and good government of the Colony, notwithstanding the fact that it may relate to persons, acts or things beyond the limits of the Colony. As the subsection provides for public security and aims at stamping out activities prejudicial to public security carried on in the Federation of Malaya and the Colony by a subversive organization operating in both territories, it is for the peace, order and good government of the Colony. Accordingly the subsection was not *ultra vires* the Legislative Assembly of the Colony;

(2) as a statement of the grounds of detention had been supplied to the applicant in accordance with section 5(2) of the Ordinance, the applicant failed to show that there were no grounds on which the Governor could be satisfied that the detention was necessary. It followed therefore that neither of the inferences suggested by counsel for the applicant could be drawn;

(3) as section 3(1) of the Ordinance imposed a subjective test, it was not open to the Court to inquire whether in fact the Governor had reasonable grounds for being satisfied that the detention was necessary. If the Ordinance did not impose a subjective test, the Court would have refused a writ of *habeas corpus* on the ground that an alternative remedy was available and that a writ of *habeas corpus* not being a writ of course might be refused for that reason.

Cases referred to:—

(1) *Macleod* v. *Attorney-General for New South Wales* [1891] A.C. 455, 458.

(2) *Wallace Bros. & Co. Ltd.* v. *Commissioner of Income Tax, Bombay* (1948), 75 I.A. 86, 98; A.I.R. 1948 P.C. 118; 52 C.W.N. 620.

(3) *Ross-Clunis* v. *Papadopoullos* [1958] 2 All E.R. 23, 33; [1958] 1 W.L.R. 546, 560, P.C.

(4) *Liversidge* v. *Anderson* [1941] 3 All E.R. 338; [1942] A.C. 206.

(5) *Ex parte Corke* [1954] 2 All E.R. 440; [1954] 1 W.L.R. 899.

HABEAS CORPUS.

David Marshall for the applicant.

A. V. Winslow (Solicitor-General) for the respondents.

Ambrose J.: This was an application under section 375 of the Criminal Procedure Code for a writ of *habeas corpus*. The Court granted an order *nisi* directing the Chief Secretary and the Commissioner of Police to show cause why the writ should not issue. They stated in their affidavits that the applicant was detained under a detention order made under section 3(1) of the Preservation of Public Security Ordinance, 1955.

The first point raised by counsel for the applicant was that this subsection is *ultra vires* the Legislative Assembly established in Singapore by the Singapore Order in Council, 1955. The subsection reads as follows:—

"If the Governor in Council is satisfied with respect to any person that, with a view to preventing that person from acting in any manner prejudicial to the security of Malaya or the maintenance of public order therein or the maintenance therein of essential services, it is necessary so to do, the Chief Secretary shall by order under his hand make an order directing that such person be detained for any period not exceeding two years: .....".

It is to be noted that by section 2 of the Interpretation and General Clauses Ordinance "Malaya" is defined as the Colony of Singapore and the Federation of Malaya.

Section 52 of the Order in Council provides:

"Subject to the provisions of this Order, it shall be lawful for the Governor, with the advice and consent of the Legislative Assembly, to make laws for the peace, order and good government of the Colony."

Counsel for the applicant contended (a) that section 3(1) of the Preservation of Public Security Ordinance makes provision for extra-territorial matters, namely, the security of the Federation of Malaya and the maintenance of public order and essential services therein; and (b) that the subsection was *ultra vires* the Legislative Assembly because it was a subordinate legislature and not the legislature of a fully sovereign state and as such had no extra-territorial jurisdiction.

The Solicitor-General contended that the subsection did not have extra-territorial operation as it was limited to the making of detention orders against persons in Singapore. The subsection, however, is not so limited. In fact, a detention order made under the subsection against a person in the Federation is enforceable in the Federation under regulation 26 of the Emergency Regulations, 1951, of the Federation of Malaya. For this reason and also for the reason that the subsection dealt with extra-territorial matters, I decided that it had extra-territorial operation.

In support of his contention that a subordinate legislature has no extra-territorial jurisdiction, counsel for the applicant cited the case of *Macleod* v. *Attorney-General for New South Wales.*[1] In that case the Judicial Committee of the Privy Council decided that the Legislature of New South Wales had no jurisdiction to enact legislation for the trial and punishment of persons who had committed crimes outside the territory of New South Wales. Counsel relied on the following passage from the judgment which was delivered by Lord Halsbury, L.C.:—

"Their Lordships think it right to add that they are of opinion that if the wider construction had been applied to the statute, and it was supposed that it was intended thereby to comprehend cases so wide as those insisted on at the bar, it would have been beyond the jurisdiction of the Colony to enact such a law. Their jurisdiction is confined within their own territories, and the maxim which has been more than once quoted *Extra territorium jus dicenti impune non paretur*, would be applicable to such a case."

It is necessary to consider the true meaning of the maxim relied on by Lord Halsbury. According to *Earl Jowitt's Dictionary of English Law*, it means "The sentence of one adjudicating outside his jurisdiction can be disobeyed with impunity." It is important to bear in mind that the expression *jus dicere* means to adjudicate; it does not mean to legislate. In my opinion, with the greatest respect to Lord Halsbury, the maxim has nothing to do with the making of laws and does not support the theory that the jurisdiction of a colonial legislature is confined to its own territory. I am fortified in my view by the following excerpt from an article by Professor H. A. Smith in the *Canadian Bar Review* (1923) Vol. 1, p. 338 at pp. 349, 350:—

"*Extra territorium jus dicenti impune non paretur.* Like most maxims of its kind the phrase is of little practical help in the solution of actual legal problems. If it means that laws may be disobeyed with impunity where the executive power to enforce them does not extend, the statement is perfectly true but somewhat obvious. If it is meant that a legislature could never attach legal consequences to acts taking place beyond its own territory, the maxim would be palpably absurd and would be clearly contrary to the practice of every legislature in the world. In its original context (Digest 2.1.20), it is used quite properly in relation to the jurisdiction of Courts and their power to enforce their decrees. The maxim has nothing whatever to do with the question of legislative competence."

Here I must refer to a very important judgment of the Judicial Committee of the Privy Council which was not cited to me by either counsel, namely, *Wallace Brothers & Co., Ltd.* v. *Commissioner of Income Tax, Bombay.*[2] The following passage from the judgment is pertinent:

"There is no rule of law that the territorial limits of a subordinate legislature define the possible scope of its legislative enactments or mark the field open to its vision. The ambit of the powers possessed by a subordinate legislature depends on the proper construction of the statute conferring those powers. No doubt the enabling statute has to be read against the background that only a defined territory has been committed to the charge of the legislature. Concern by a subordinate legislature with affairs or persons outside its own territory may therefore suggest a query whether the legislature is in truth minding its own business. It does not compel the conclusion that it is not. The enabling statute has to be fairly construed."

This lays down the principle to be applied in deciding whether a law is *ultra vires* the Legis-

lature of the Colony of Singapore. Section 52 of the Order in Council empowers the Legislature to make laws for the peace, order and good government of the Colony. The test is, therefore, whether section 3(1) of the Preservation of Public Security Ordinance is for the peace, order and good government of the Colony, notwithstanding the fact that it may relate to persons, acts or things beyond the limits of the Colony. In my opinion, as the subsection provides for public security and aims at stamping out activities prejudicial to public security carried on in the Federation of Malaya and the Colony by a subversive organization operating in both territories, it is for the peace, order and good government of the Colony. I accordingly held that the subsection was not *ultra vires* the Legislative Assembly of the Colony.

Having reached this conclusion, I took the view that it was not necessary to decide the point contended for by the Solicitor-General, that the expressions "peace, order and good government of the Colony" included certain matters set out in section 61 of the Order in Council, which deals with the Governor's reserved power. It became unnecessary, therefore, for me to decide two points submitted on behalf of the applicant for my consideration in the event of my accepting the Solicitor-General's contention.

The next point urged on behalf of the applicant was that, where a statute requires that a public officer should be satisfied of something before exercising a statutory power, if it could be shown that there were no grounds on which he could be so satisfied, the Court might infer either that he did not honestly form that view or that, in forming it, he could not have applied his mind to the relevant facts. Counsel cited the case of *Ross-Clunis* v. *Papadopoullos,*[3] in support of his submission. In that case the Judicial Committee of the Privy Council laid down the principle relied on by counsel as a qualification of the subjective test which the House of Lords in *Liversidge* v. *Anderson,*[4] considered was imposed by the words "If the Secretary of State has reasonable grounds to believe". Counsel said that the affidavit of the Chief Secretary merely stated in paragraph 2:

> "The facts of the said Choo Jee Jeng's case were laid before the Governor in Council. The Governor in Council considered the matter and was satisfied that with a view to preventing the said Choo Jee Jeng from acting in a manner prejudicial to the security of Malaya and the maintenance of public order therein his detention is necessary."

It was further said that the affidavit showed no grounds on which the Governor could be satisfied that the detention was necessary. Counsel accordingly invited the Court to infer that the Governor did not honestly form the view that the detention was necessary or that, in forming it, he could not have applied his mind to the relevant facts. Counsel admitted, however, that a statement of the grounds of detention had been supplied to the applicant in accordance with section 5(2) of the Preservation of Public Security Ordinance. Under the circumstances, counsel failed to show that there were no grounds on which the Governor could be satisfied that the detention was necessary. It followed, therefore, that neither of the inferences suggested by counsel could be drawn.

The last point taken on behalf of the applicant was that the statement of the grounds of detention supplied to the applicant was inadequate and, therefore, that the detention was improper. In my opinion, as section 3(1) of the Preservation of Public Security Ordinance imposed a subjective test, it was not open to the Court to inquire whether in fact the Governor had reasonable grounds for being satisfied that the detention was necessary: *Liversidge* v. *Anderson, ante.* If the Ordinance did not impose a subjective test, I would have refused a writ of *habeas corpus* on the ground that an alternative remedy was available and that a writ of *habeas corpus* not being a writ of course might be refused for that reason: *Ex parte Corke.*[5] The alternative remedy was the right of appeal under section 5(1) of the Ordinance to the Appeal Tribunal established under the Ordinance. It was, in fact, in the applicant's own interests to appeal to the Appeal Tribunal rather than apply to this Court for a writ of *habeas corpus,* as the Appeal Tribunal is empowered by section 5(2) of the Ordinance to direct the Chief Secretary to supply such further information as it considers necessary to enable a person to present his case before it.

For the above reasons I discharged the order *nisi.*

Order accordingly.

Solicitors: *Marshall & Smith.*

CITY COUNCIL OF SINGAPORE v. TONG TECK SENG & ORS.

[C.A. (Rose C.J., Buttrose and Ambrose JJ.) July 3, 1959]

[Singapore — Civil Appeal No. 5 of 1959]

Local Authority — Rating — Assessment — Notice to amend annual value assessed under Municipal Ordinance after coming into operation of repealing Local Government Ordinance, 1957 — Provision of repeal of Municipal Ordinance not brought into operation — Practical necessity for both Ordinances to be in concurrent operation.

Legislation — Re-enacting Ordinance — Parts and provisions coming into operation on different dates — Application of implied repeal doctrine.

In this case the respondents were owners of No. 2 St. Thomas Walk, having purchased it in September 1957 and the annual value on which the property had been assessed at that time was $2,880. In January 1958, pursuant to the provisions of section 64 of the Municipal Ordinance the appellant served a notice on the respondents to amend the said annual value to $13,000 for the year 1958, and in May 1958 they were notified that the Assessment Committee of the appellant, at its meeting held on April 22, 1958, had fixed the annual value of the property at that amount with effect from January 1,